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## CITIZENS AWARENESS NETWORK

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AD July 6, 2000

Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Subject: Request for Extension of Deadline for Hearing Requests and Petitions to Intervene in the Review of the Power Authority of the State of New York's applications for Transfer of Facility Operating Licenses and Proposed License Amendments for James A. FitzPatrick (docket number 50-333) and Indian Point Unit 3 (docket number 50-286) Nuclear Power Plants

To the Secretary,

The Citizens Awareness Network, Inc., hereby requests a motion under 10 CFR § 2.1312 and 2.1325 to extend the deadline for hearing requests and petitions to intervene in the license transfer proceedings pending for the Indian Point Unit 3 (IP3) and James A. FitzPatrick (FitzPatrick) nuclear generating stations (docket numbers 50-286 and 50-333). The Power Authority of the State of New York (NYPA) has applied to transfer the facility operating licenses for IP3 and FitzPatrick to Entergy Nuclear Indian Point Unit 3, LLC and Entergy Nuclear FitzPatrick, LLC for possession and use of the respective facilities, and to Entergy Nuclear Operations, Inc. to possess, use and operate IP3 and FitzPatrick.

The July 18th deadline for hearing requests and petitions to intervene in the review of NYPA's applications poses an excessive and undue burden on CAN. We are therefore seeking an extension of that deadline for the reasons stated below. First, the original July 18th deadline was calculated using the wrong NRC rule, artificially decreasing the public's time to review and respond to the applications. Second, there have been onerous obstacles to access the license transfer applications. This has caused an undue burden on ordinary citizens and environmental groups such as CAN with respect to preparing hearing requests and petitions to intervene. Finally, this is the first opportunity for the public to review the proposed transfers and the complex arrangements (financial and otherwise), and their implications for the people of the United States of America, so there is an even more urgent need for sufficient time for public scrutiny.

In our reading, the NRC seems to have applied an incorrect rule in calculating the July 18 deadline for hearing requests and petitions to intervene in the license transfer proceedings. Under 10 CFR § 2.1306 (c)(1), the public has 20 days after the notice of receipt of applications is published in the Federal Register to file hearing

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requests and petitions, "*for those applications published in the Federal Register.*" However, because the applications were not published in the Federal Register prior to the June 8 notice of receipt, we do not believe that 2.1306 (c)(1) is applicable, and the applicable rule is 10 CFR § 2.1306 (c)(2). That rule mandates 45 days for timely filing of hearing requests and petitions to intervene "after notice of receipt [of applications] is placed in the Public Document Room."

The date on which the applications were docketed on the NRC's Agency-wide Document Access and Management System (ADAMS) was June 2, 2000. However, due to problems with accessibility to ADAMS, CAN was unable to begin using ADAMS until June 16, 2000 and we are still unable to print documents from the system. Therefore, we were unable to obtain copies of the applications until July 5, 2000, over one month after the documents were supposed to be available to the public through ADAMS. CAN promptly obtained the Federal Register notice on June 28, 2000, the day of publication. However, the notice itself does not contain sufficient information to properly evaluate the license transfer applications, and we sought and obtained the applications directly from NYPA, which took an additional seven days. Therefore, we feel that the 45-day period mandated under 10 CFR § 2.1306 (c)(2) should realistically and fairly be calculated starting from July 5, 2000, the date the application actually became available to CAN.

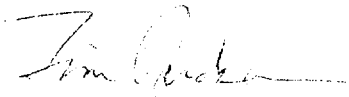
The Nuclear Regulatory Commission received copies of the applications on May 11, 2000 and May 12, 2000 respectively. The NRC's in-house review continued over a period of more than six weeks, substantially more than the amount of time using 10 CFR § 2.1306 (c)(1) grants to the public. CAN is a grassroots, volunteer organization with limited resources to evaluate the applications and develop a hearing request and petition to intervene. The stipulated July 18 deadline places an undue burden on CAN to responsibly review and respond to the applications, particularly given the aforementioned obstacles to accessing the documents.

Further, the review of these applications will be the public's first, and possibly only, opportunity to review the proposed transfer of NYPA's nuclear generating facilities to Entergy. This is the first proposed multi-unit transfer to actually undergo a full evaluation before the Nuclear Regulatory Commission. In addition, the arrangements set forth in the agreement between NYPA and Entergy are unique. If the transfer is approved, they will set precedent for future sales of nuclear generating facilities. These unprecedented conditions make reviewing and responding to these applications by the stipulated deadline more difficult, thereby increasing the burden on ordinary citizens and environmental groups such as CAN.

In view of the unique, complex, and potentially precedent-setting nature of the proposed transaction, it is the NRC's responsibility to make sure that the public has adequate time to participate in the review of these applications. Therefore, we request a motion that the Secretary, under the Commission's authority granted in 10 CFR § 2.1306 (c)(3), extend the deadline for hearing requests and petitions. In view of these considerations, and if 10 CFR § 2.1306 (c)(1) is still determined to be the applicable rule, we believe it would be appropriate to extend the deadline for hearing requests and petitions to intervene one week (to July 25, 2000), to reflect the date on which the applications actually became available to us. However, if our

reading of the rules is correct and 10 CFR § 2.1306 (c)(2) is the applicable rule, the period for timely filing of hearing requests and petitions to intervene regarding applications which have not been published in the Federal Register is 45 days from the date the applications are made available in the Public Document Room (PDR). Since ADAMS is now the surrogate for the PDR, and since it has well-documented accessibility problems which precluded CAN from obtaining the applications until July 5, we request 45 days from our actual receipt, which is August 19, 2000.

Sincerely,



Tim Judson  
Citizens Awareness Network

Citizens Awareness Network (CAN) is a grassroots, 501(c)(3), non-profit organization. We work out of our homes and are funded by the generous support of concerned citizens and progressive foundations. We work pro-actively to end the cycle of contamination and sacrifice of our environment, our health, and our children's future. We work to support and help communities in their struggles to regain control of their environment and exercise their rights to participate democratically in decisions that affect them and their well-being.

cc: Mr. Douglas Levanway, Wise, Carter, Child, and Caraway  
Mr. Gerald Goldstein, Asst. General Counsel, New York Power Authority  
General Counsel, U. S. Nuclear Regulatory Commission  
Mr. Emile Julian, Office of the Secretary, U.S.N.R.C.